

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Candee Wong

Date Application filed with the Town Clerk: June 1, 2005

Nature of request: A Special Permit under Section 9.22 of the Zoning Bylaw to operate a beauty salon

Location of property: 321 Main Street (Map 14B, Parcel 28, R-G Zoning District)

Legal notice: Published on June 29th and July 6th, 2005 in the Daily Hampshire Gazette and sent to abutters on June 29, 2005.

Board members: Zina Tillona, Tom Simpson, Susan Pynchon

Submissions: The applicant submitted:

- The applicant's Management Plan, initially received 7/8/05; re-submitted 7/18/05
- A floor plan, dated 4/21/89; re-submitted 7/18/05
- A sign plan, received 7/8/05
- A Management Plan from Kamins Real Estate, received 7/18/05

Town staff submitted:

- A memo from the Assistant Fire Chief concerning the need for a fire protection system for the building, and address assignments for the building, dated 7/11/05
- A memo from zoning staff listing the applicant's updated submissions, dated 7/22/05

Site Visit: July 6, 2005

The Board observed the small, ground-level room of a non-conforming building in which the proposed hair salon would be located. The building itself is unkempt, with weeds, debris, and cracked paving around it. The surrounding neighborhood contains a mix of uses - a commercial district along Main Street to the east, an historic district across Main Street (the Dickinson Museum), and residential homes to the north and west.

Public Hearing: July 14, 2005

Ms. Wong represented herself at the hearing. She gave the following information:

- She proposes to operate her own hair salon, specializing in airbrush make-up, tanning, eyelash extensions, hair cuts, waxing and facials.
- She would have one other employee besides herself.

- The salon would be open six days/week, but she would like to have the option of a seventh day if necessary
- The space is small, and the salon would be a start-up business.
- The sign over the doorway would be approximately 3' x 6', with colors of blue and red, and the design as submitted.
- She would like an extra sign visible from Main Street in order to alert the customers to the location.
- There would be no need for extra outside lighting, since there is some above the doorway
- Kamins Real Estate would manage the outside of the building.

The Board remarked that several things are lacking with the application:

- A more specific drawing of the proposed space is needed – those submitted by Kamins provide no information concerning dimensions or use.
- A new management plan from the applicant is needed, since Valley Bicycles has moved, and will no longer take care of the trash and snow removal.
- Site improvements must be made. The entire property is rundown and needs improved external management. Although Mr. Kamins only recently acquired this property to manage, it needs to be on record how the exterior will be improved.
- In the future, a property management plan from the property owner or manager should be part of every Special Permit given for any use of that building.

Zina Tillona moved to continue the hearing until 7/25/05, and asked the petitioner to invite Mr. Kamins to attend the hearing as well. Tom Simpson seconded the motion; the vote to continue the hearing was unanimous.

Continued Public Hearing – July 25, 2005

The Board reviewed the revised Management Plan and floor plans re-submitted by the applicant. The size of the space for the proposed salon is approximately 390 sq. ft. The layout of the salon is shown on the floor plan. The hours of operation – 10 AM to 6 PM six days/week - and the number of employees (2) are compatible with other businesses in the area. The services listed match those given by Ms. Wong at the previous hearing date.

The Board reviewed the Management Plan submitted by Kamins Real Estate. Mr. Kamins could not attend this hearing, but had attended a different ZBA hearing about the property the previous week. He had agreed to make immediate site improvements at that time, and submitted his management plan for the site, applicable to all business within the building. In addition to snow removal, trash and recycling removal, a landscaping plan was included that had six specific exterior areas that will be improved.

The Fire Department memo of 7/11/05 had not been available for the previous hearing; it was given to the applicant at this time. Since a sprinkler system may be needed for the building, the applicant was advised to pass the memo on to Mr. Kamins.

The Board inquired whether the applicant would need any permits from the Health Department as well, since chemicals will be used in her business. Ms. Wong replied that she had met with an Amherst Health Inspector, and was told that she did not need any approval or permits from the Board of Health. Ms. Wong stated that the business is licensed by the State, which covers local health standards as well.

Mark Snow, Assistant Building Commissioner, inquired about a customer counter for payments. The counter needs to be handicapped accessible, he said. Ms. Wong said that the make-up table will double as the payment counter. She will work with Inspection Services to make sure that it is accessible.

Mr. Snow said that his department wants to have a site inspection before she opens her business.

In terms of signs, Ms. Wong said that she would like to have two signs – one above the entrance, and another showing the salon's location. The entrance sign would be located along a panel above the doorway, next to the Travel Loft sign for the business next door.

The Board agreed that the entrance sign location was appropriate, and said that its height and size should match that of the Travel Loft sign.

The location of the extra stand-alone sign had not been determined as of the hearing. Ms. Wong said that she tried to meet with the Building Commissioner several times, but had not been successful to date. Mr. Kamins had given approval for the two or three locations she has proposed for the second sign.

The Board viewed photos of the site, taken by Planning Department staff. The proposed locations for the second sign are all on the easterly side of the property, and visible from Main Street. The Board had no objections to any of the proposed locations; they agreed that an additional sign is needed, since the proposed salon business would be located on the eastern side of the building, underneath a stairway. Section 8.41 of the Zoning Bylaw allows the Board to approve an extra sign to be erected in any district where the Board finds that the sign will serve the public convenience, and will be of such size, location and design as will not be detrimental to the neighborhood.

The Board asked if extra exterior lighting would be needed for the signs. Ms. Wong said that she did not think it necessary.

Tom Simpson moved to close the public hearing. Susan Pynchon seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board noted that this is a non-conforming site because the business building is located in a residential zoning district. The Board also noted that a hair salon had been

located at the site before, and agreed that it was an appropriate location for Ms. Wong's proposed hair salon. The business would meet the requirements of Section 9.22 of the Zoning Bylaw for non-conforming uses and structures – i.e., it would not change the character of the neighborhood or increase the non-conformity in any way

Susan Pynchon moved to approve the package of submitted materials – the Management Plans of Ms. Wong (the business) and Mr. Kamins (the site), the salon floor plan, and the two signs' design and colors. Tom Simpson seconded the motion, and the vote was unanimous to approve the package of materials.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses, since there are other businesses in the building and the property is located adjacent to a Commercial District where businesses are allowed by right.

10.382 & 10.385 – The proposal will not create a nuisance due to noise, odor, lights or visually offensive structures since the business will be small with few customers and will be contained within the building. No external structures other than the sign are proposed.

10.383 – The proposal will not be an inconvenience to abutters, vehicles or pedestrians because there is parking immediately available, the building is located away from the street and few customers will be in the salon at any one time.

10.384, 10.386 & 10.388 - Adequate and appropriate facilities would be provided for the proper operation of the proposed use since the space will accommodate the petitioner's clientele, deliveries can readily be made to the site, and there is a bathroom with public water/sewer.

10.386 – The proposal is in conformance with the Parking and Sign regulations of the Bylaw - there are three (3) parking places outside Ms. Wong's proposed business and approximately 20 parking places on the site overall which can be shared with the 3-4 other small businesses in the building. The two proposed signs have been approved by the Board; their design and size are in keeping with the other signs for the building. The location of the second sign will be reviewed and approved by the Board at a future business meeting prior to installation.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes since the property is connected to the town sewer, the applicant will share a dumpster with other businesses in the building, and the landlord will contract with a local trucking company for weekly trash and recycling removal.

10.391 – The site is in an historic district and across from the historic Dickinson Museum. The conditions of the permit will ensure that these important historic features are protected.

10.392 – The proposal will provide adequate landscaping since the management company has included improved landscaping in his management plan. The conditions of the permit related to landscaping will require execution of the management plan and continuous upkeep.

10.393 – The proposal will not add exterior lighting because there is adequate ambient light at the street corner and light from adjacent business and from the interior of the store.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects safety for traffic and pedestrians and promotes convenience for those who

desire the applicant's services. It also should improve conditions to the building and on the site in this important historic location.

Zoning Board Decision:

Tom Simpson moved to approve the petition with conditions. Susan Pynchon seconded the motion.

For all of the reasons stated above, the Board voted unanimously to APPROVE a Special permit to Candee Wong to operate a beauty salon on the premises at 321 Main Street (Map 14B/Parcel 28, R-G Zone), with conditions.

ZINA TILLONA

TOM SIMPSON

SUSAN PYNCHON

FILED THIS _____ day of _____, 2005 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2005.
NOTICE OF DECISION mailed this _____ day of _____, 2005
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2005,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Candee Wong under Section 9.22 of the Zoning Bylaw to operate a beauty salon on the premises at 321 Main Street (Map 14B/Parcel 28, R-G Zone), subject to the following conditions:

1. The sign over the entrance shall be of the same size and materials as that of the adjoining sign.
2. The hair salon shall be operated according to the Management Plan submitted by the applicant and approved by the Board at a public meeting on July 25, 2005.
3. The hours of operation shall be limited to 10 AM to 6 PM seven days a week.
4. The second sign's location, size and design shall be approved at a public meeting of the Board prior to installation.
5. No products or procedures shall be used in the salon that will create noxious odors that will spread beyond the salon space.
6. The exterior of the building shall be managed according to the Management Plan submitted by Kamins Real Estate and approved by the Board at a public meeting on July 25, 2005.
7. The landscaping plan, as part of Kamins' approved Management Plan, shall be executed and aspects of the plan shall be continuously maintained.
8. This permit shall expire upon change of ownership or management.

ZINA TILLONA, Chair
Amherst Zoning Board of Appeals

DATE